

UNITED STATES DISTRICT COURT  
for the

Western District of Virginia

CLERK'S OFFICE U.S. DISTRICT COURT  
AT ROANOKE VA. - FILED

JUN 25 2008

JOHN F. CORCORAN, CLERK  
BY: *J. F. Corcoran*, DEPUTY CLERK

United States of America

Y.

Warren Andrew Blake, Jr.

Date of Previous Judgment: July 17, 2007  
(Use Date of Last Amended Judgment if Applicable)

)  
)  
) Case No: 7:04CR00124-001  
) USM No: 10872-084  
) Fay F. Spence  
) Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of  the defendant  the Director of the Bureau of Prisons  the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

**IT IS ORDERED** that the motion is:

DENIED.  GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 66 months is reduced to 65 months.

## **I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)**

Previous Offense Level: 29 Amended Offense Level: 27  
Criminal History Category: IV Criminal History Category: IV  
Previous Guideline Range: 121 to 151 months Amended Guideline Range: 120\* to 121 months

## II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

The reduced sentence is within the amended guideline range.

- The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

Other (explain):

\*In calculating the reduction granted for the defendant's substantial assistance, the court used as a starting point the low end of his guideline range, 121 months. The low end of the defendant's amended guideline range is "trumped" by the statutory mandatory minimum of 120 months under 21 U.S.C. § 841(b)(1)(A); accordingly, 120 months and not the low end of the amended guideline range becomes the starting point from which any substantial assistance reduction must be calculated. Thus, only a one-month reduction is appropriate.

### III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated July 17, 2007 shall remain in effect.

IT IS SO ORDERED.

Order Date: June 25, 2008

Effective Date: \_\_\_\_\_  
(if different from order date)

James C. Turk, Senior United States District Judge  
Printed name and title